

# Sage Grouse

ANNUAL REPORT

Contract No. 136039

August 18, 2015



Stag Consulting



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# EXECUTIVE SUMMARY



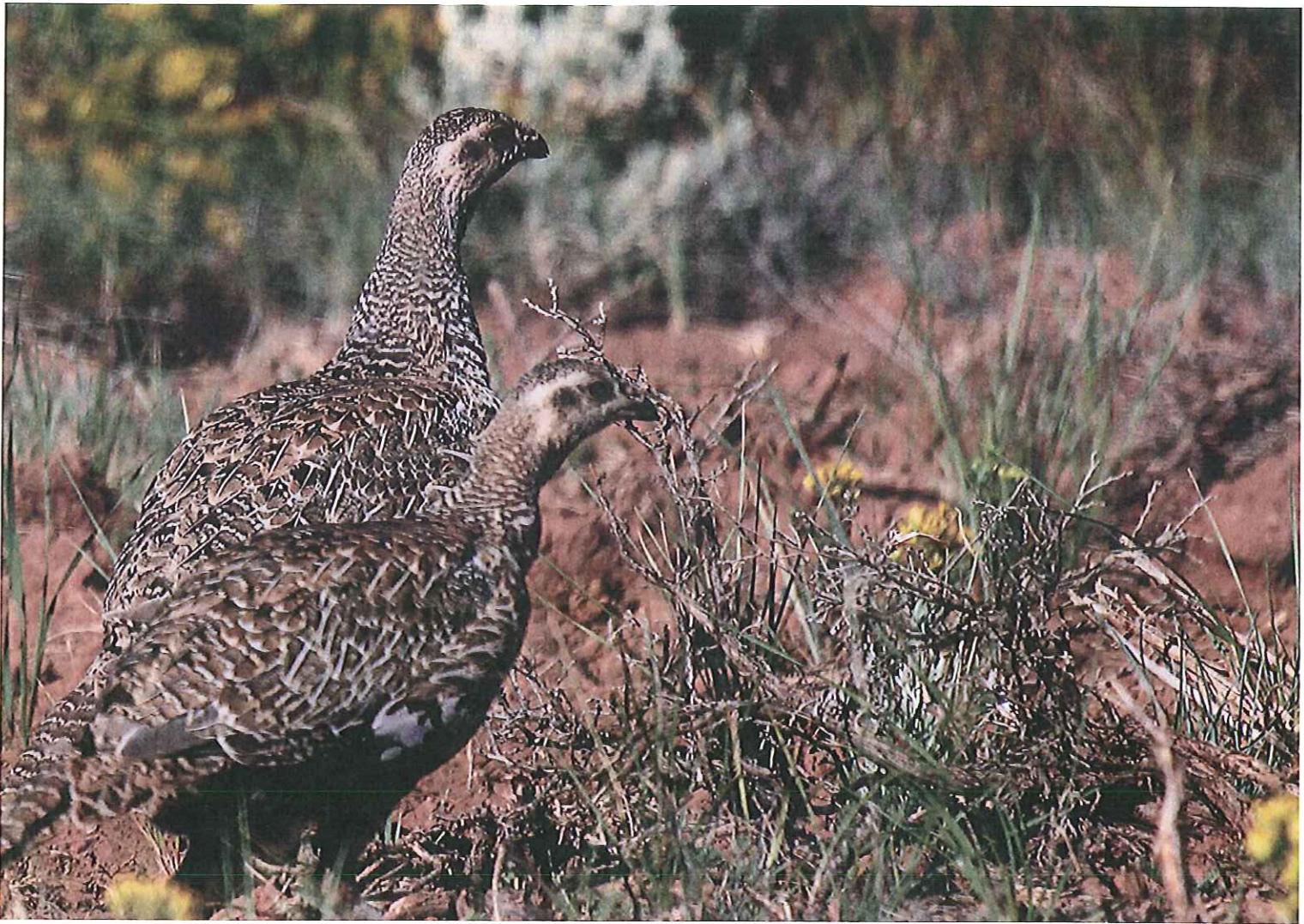


Figure 1. Sage-grouse in an area restored through Utah's Watershed Restoration Initiatives.

Stag Consulting's efforts pursuant to the contract are focused on protecting state management authority over Sage-grouse. These efforts are dictated by the requirements set forth in the "Detailed Scope of Work" section of Contract 136039 which states:

*The Contractor will work with Congress to legislatively delay the date for any proposed or final decision to list the Greater Sage-grouse beyond the currently mandated date of September 30, 2015. The state expects that Stag Consulting will seek a date sufficiently in the future to allow state conservation plans and local efforts to conserve the species, and the effects of these efforts upon populations and threats to the populations to be documented according to scientific protocol. The state expects a sufficient time frame will require three or more generations of the species, or about ten years. The funding to accomplish this task will be used by Stag Consulting for the following purposes: (1) legal strategies; (2) educating members of congress; and (3) engaging the public in the process.*

The legal/political status of Greater Sage-grouse has become a hot topic in recent years. The September 2015 decision on whether to add Greater Sage-grouse to the list of endangered and threatened species means this topic will become even more relevant in the coming months. Under state management, solutions are achievable that protect jobs, economic productivity, and the needs of Utahns while also advancing Greater Sage-grouse conservation.

Greater Sage-grouse are one of six North American grouse species. State Fish and Game agencies categorize Greater Sage-grouse as an upland game bird. Adult males are approximately 18-24 inches tall and display unique plumage and mating behaviors. During breeding displays, males exhibit olive-green apteria (fleshy bare patches of skin) on their breasts (Schroeder et al. 1999), which are unmistakable on "lek" breeding grounds.



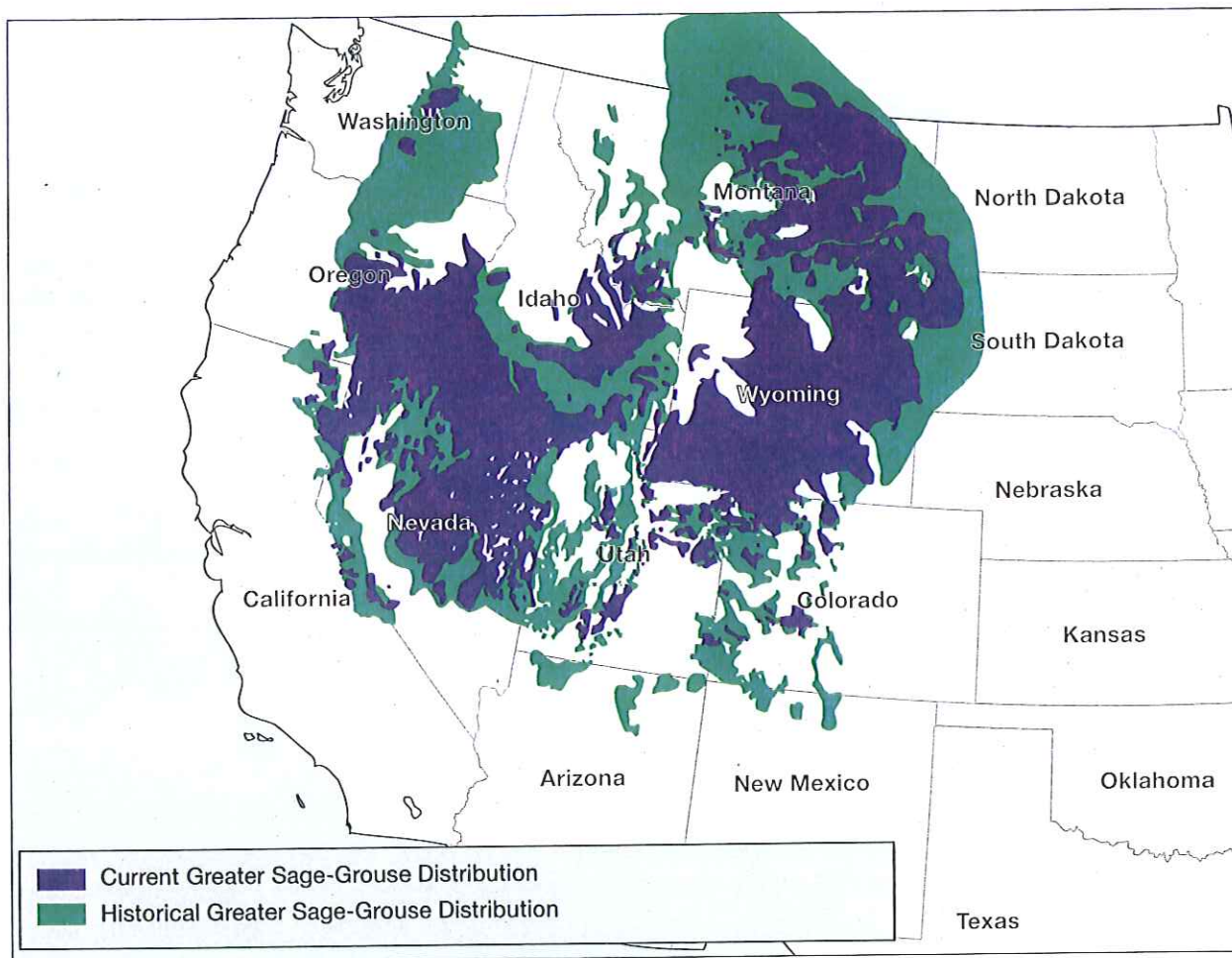


Figure 2. Sage-grouse inhabit 165 million acres across 11 Western states. Utah accounts for approximately 2-5% of Sage-grouse range-wide.

Sage-grouse inhabit large, treeless areas categorized as sage-brush steppe or sagebrush shrub lands. These areas are semi-arid, with cold winters and hot summers. Most of the landscape is dominated by sagebrush, bitterbrush, and native bunchgrasses with the occasional wet meadows. Eleven western states have some sagebrush-steppe habitat: North Dakota, South Dakota, Montana, Washington, Oregon, Idaho, Wyoming, Utah, Nevada and Northern California.

The State of Utah has very little sagebrush steppe, largely explaining the state's overall low population of birds. Some birds in Utah do inhabit landscapes designated as desert shrub habitat. However, desert shrub landscapes are fairly poor habitat for Greater Sage-grouse populations and are not considered to contribute significantly to long-term Sage-grouse conservation. There are a number of benefits for providing an extension of time on a listing decision for Greater Sage-grouse including:

1. Allowing time for state conservation plans to work for Greater Sage-grouse and Sage-grouse habitats;

2. Developing a better understanding of the science for protecting Greater Sage-grouse populations and Sage-grouse habitats;
3. Further developing proven methods for efficiently managing and restoring Greater Sage-grouse and Sage-grouse habitats;
4. Continuing incentives for states, partners and land-owners to continue proactive conservation efforts and funding levels needed for conservation efforts to be successful;
5. Addressing the continuous cycle of litigation and repeated listing petitions which will subsequently allow state and federal agencies to focus collaborative efforts on higher priority species; and
6. Protecting balanced use of natural resources for the benefit of Greater Sage-grouse while protecting Utah jobs and economic productivity during a critical economic recovery period.

Sage-grouse is also a very important topic in the United States Congress. In April of 2015, the National Defense



Authorization Act of 2016 was introduced in the House of Representatives. Section 2862 of the bill provides a 10-year extension of time on a listing determination of Greater Sage-grouse.

An attempt was made to strip the Sage-grouse protections from the bill in the House Armed Services Committee. However, those provisions were successfully retained by a vote of 26-36. The full bill passed out of committee by a vote of 60-2 on April

30, 2015. The bill was then heard by the U.S. House of Representatives in May of 2015. The bill, including Section 2862, passed by a vote of 269-151 in the U.S. House of Representatives. In early July, 107 members of the U.S. House of Representatives sent a letter to the House and Senate Armed Services leadership in support of inclusion of Section 2862 in the final version of the bill. Final passage of the National Defense Authorization Act is expected as early as September 2015.







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# STAG CONSULTING EFFORTS



**T**his report is provided in compliance with State of Utah Contract 136039. The contract requires Stag Consulting to provide "written, quarterly progress reports to the Department of Natural Resources and to the Natural Resources, Agriculture, and Environment Interim Committee." This quarterly report is being provided at the end of the first full-year contract period. As contemplated in Stag Consulting's contract proposal, Stag Consulting has worked extensively with Big Game Forever, a 501(c)4 social welfare organization to engage the public in the process. Ryan Benson is the attorney who spearheads the Greater Sage-grouse Coordinated Consulting Team pursuant to the contract.

This report is provided in addition to the three quarterly progress reports that have previously been submitted by Stag Consulting, related to the Greater Sage-grouse Coordinated Consulting Team's efforts. This report will provide an overview of the efforts in the 4th quarter of the 2014-2015 contract period, as well as an overview for the entire year.

## **Greater Sage-grouse Coordinated Consulting Team's Work**

The Sage-grouse coordinated consulting team has expended significant efforts for the following contractual purposes:

1. Legal strategies
2. Educating members of Congress
3. Engaging the public in the process



# 1. Legal Strategies

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*As with many species, the legal and administrative history of Greater Sagegrouse efforts to force a listing on the Endangered Species Act is long, convoluted and full of controversy. Understanding the reasons for which an ESA listing is being proposed is helpful to understand the legal strategies being utilized by the State of Utah.*



# BACKGROUND

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## **Greater Sage-grouse as a Candidate Species**

Greater Sage-grouse were first proposed as a potential candidate for study pursuant to the Endangered Species Act on September 18, 1985. At that time, it was suggested that a potential western subspecies of Greater Sage-grouse should be included as a "category 2" research candidate for listing consideration on the Endangered Species List (50 FR 37958). Subsequently, it was questioned whether western and eastern variations in the Greater Sage-grouse justified a subspecies separation. In 1996, use of the "category 2" designation of species for listing consideration under the Act was discontinued (61 FR 7596), effectively removing Greater Sage-grouse as a candidate species for listing consideration.

## **Lawsuit Challenging "Not Warranted" Decision**

On July 14, 2005, plaintiff, Western Watersheds Project, filed a complaint in a federal district court challenging the Service's 2005 12-month request as "arbitrary and capricious." On December 4, 2007, the U.S. District Court of Idaho ruled in favor of the plaintiff and remanded the listing decision to the Service for reconsideration. On January 30, 2008, the court approved a stipulated agreement between the Department of Justice and the plaintiff, Western Watershed Project.

## **New Decision "Warranted but Precluded"**

U.S. Fish and Wildlife Service published a new decision on Greater Sage-grouse on March 23, 2010. The Service's new findings concluded that a listing of Greater Sage-grouse was "warranted but precluded," designating the bird as a candidate species under the Endangered Species Act. The published findings focused on primary threats to Sage-grouse that were identified as habitat destruction and/or modification. A significant focus of the "warranted but precluded" decision was whether regulatory mechanisms are adequate to protect Sage-grouse and their habitats.

## **Mega-Petitions to list 1,230 Species Filed**

From 2007 to 2011, petitions to list hundreds of species on the Endangered Species List were filed. These "mega-petitions" proposed listing 207 species in the Mountain-Prairie Region and 475 species in the Southwest Region. This was a substantial increase in listing petitions during this period from previous periods and was truly unprecedented. In fact, a single special interest group filed petitions to list over 700 species in the four-year period.



### **Lawsuits Filed to Challenge “Warranted but Precluded”**

These petitioners also filed dozens of lawsuits over findings related to petitions to list these species as endangered. Among these lawsuits were challenges to the “warranted but precluded” determination on Greater Sage-grouse. “Warranted but precluded” findings must demonstrate: (1) there are higher priority proposed rules that preclude the Service from issuing a proposed rule at the time of the finding; and (2) expeditious progress is being made to add qualified species to the list.

### **Multi-District Litigation Settlement and September 2015 Deadline for New Decision**

On May 10, 2011, a Multi-District Litigation (MDL) settlement was announced between U.S. Fish and Wildlife Service and the private plaintiff organizations. The settlement resulted in legally mandated deadlines for 251 candidate species. The specific deadline for decision on Greater Sage-grouse under this agreement is September 2015. Several unsuccessful attempts have been made by third parties to challenge the MDL settlement in court.

### **Causative Factors in “Warranted but Precluded” Listing**

It is important to point out that the 2010 finding of “warranted but precluded” was based on two factors: (1) the present or threatened destruction, modification or curtailment of habitat or range of Greater Sage-grouse and (2) the inadequacy of existing regulatory mechanisms.

Potential “threats” to Greater Sage-grouse and Sage-grouse habitats identified in the 2010 “warranted but precluded” decision include:

1. Direct conversion (to agricultural or urbanized land)
2. Infrastructure (roads and power lines)
3. Wildfire and change in wildfire frequency
4. Incursion of invasive plants
5. Grazing
6. Non-renewable and renewable energy development



# PROGRESS & RESULTS

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## Quantified Spatial Legal and Scientific Analysis of Potential "Threats"

During the past year, the Sage-grouse Coordinated Consulting Team has worked closely with the State of Utah and agencies within the state to provide a more complete and transparent understanding of how Utah's Plan is working to ameliorate perceived potential threats to Greater Sage-grouse and address the needs of the birds across the state. This is helpful to:

1. Provide an enhanced level of understanding;
2. Increase reliability of information;
3. Demonstrate a level of certainty that Utah's conservation practices utilize science-based solutions that are proven to work for Greater Sage-grouse; and
4. Illustrate how Utah's investment is addressing other important values in the State of Utah, including watershed restoration, wildfire, invasive species concerns, balancing conservation needs with responsible energy production and exurban development.

We are grateful for the contributions and efforts of:

Utah Public Lands Coordinating Office  
Utah Department of Natural Resources  
Utah Division of Wildlife Resources  
Utah Division of Forestry Fire and State Lands  
Governor's Office of Economic Development  
Utah Division of Oil, Gas & Mining  
Governor's Office of Energy Development  
Utah State University  
The University of Utah

***This was truly a coordinated and collaborative effort to process volumes of information, requiring countless hours and tireless efforts to meet the aggressive deadlines of this project. The years of data accumulation, science, research and extensive subject matter expertise were instrumental in synthesizing these Utah Conservation Strategies documents.***

# UTAH'S PLAN

On February 14, 2013, the State of Utah adopted an updated Conservation Plan for Greater Sage-grouse in Utah ("Utah's Plan"). Utah's Plan stated goal was "to protect high-quality habitat, enhance impaired habitat and restore converted habitat to support, in Utah, a portion of the range-wide population of great Sage-grouse (*Centrocercus urophasianus*) necessary to eliminate threats to the species and negate the need for the listing of the species under the provisions of the federal Endangered Species Act (ESA)."

The 2013 Utah Plan was not the first Conservation Plan for Greater Sage-grouse, but rather built upon previous statewide conservation plans and decades of experience managing for Greater Sage-grouse. Utah's Plan also adopts important conservation objectives and measures to ensure long-term conservation success of Greater Sage-grouse:

1. Protection of 90% of habitat and 94% of Sage-grouse in Sage-grouse Management Areas (SGMAs).
2. Maintaining an average of 4,100 male Sage-grouse on a minimum of 200 leks (breeding areas).
3. Increasing habitat by 50,000 acres per year and improving an average of 25,000 acres of habitat each year.

Protecting 10,000 acres of habitat on private and School and Trust Lands (SITLA) lands. State management of Sage-grouse allows for implementation of common-sense conservation measures that not only protect balanced use of our working landscapes, but also long-term conservation of species like Greater Sage-grouse. These conservation measures are paying dividends for Utah's Sage-grouse populations.

Utah's Sage-grouse populations have been increasing over the last 15 years, with a 40% increase in 2014. Increased population counts are also being documented in 2015. This demonstrates the Utah's Sage-grouse populations remain resilient and can respond with strong population growth in favorable years. Additionally, 10-year population averages, which help control for annual population fluctuations demonstrate the population trends in the state's Sage-grouse populations continue to grow. In fact, the 10-year rolling average number of males counted shows increasing population trends since the mid-1990s.

To view a complete copy of Utah's Conservation Plan and to learn more about Utah's track record of success visit: <http://wildlife.utah.gov/learn-more/greater-Sage-grouse.html>

**\$5 million**  
spent annually on  
Sage-grouse conservation

**75,000**  
acres of habitat  
restored annually

**7.4 million**  
acres of Sage-grouse habitat  
protected by Utah plans

**1.2 million**  
acres restored since 2006

**94%**  
of Utah Sage-grouse live in  
protected areas

**98%**  
Utah is currently at 98% of  
its population growth

Figure 3. Utah's Plan is based on quantifiable objectives both in on-the ground conservation investment and overall Sage-grouse population numbers.





### **Reaffirming Utah's Commitment to Long-term Sage-grouse Conservation**

During the 2015 Utah Legislative Session, the Utah Legislature passed Senate Concurrent Resolution 3 (SCR 3), reaffirming its commitment to long-term Sage-grouse conservation, funding for Utah's Plan and requesting Congressional action to provide additional time for implementation of Utah's Conservation Plan. For a complete copy of SCR 3 please refer to Exhibit B.

### **Utah Demonstrating that State and Local Solutions Work**

Implementation of Utah's Plan utilizes science-based strategies and proven conservation solutions for Greater Sage-grouse. Utah's adaptive management strategies are vitally important as additional science is developed on Greater Sage-grouse conservation. State management of Sage-grouse under the Utah model provides significant benefits not only to Sage-grouse, but also other critical issues facing Western landscapes.

Sage-grouse experts acknowledge that Sage-grouse conservation should be possible given the current numbers and distribution of Sage-grouse. Perhaps this is the reason why efforts to force an endangered species act listing focus instead on long-term "threats" to Sage-grouse populations and their habitats.

Utah's conservation strategies focus on the most important threats in ways that augment Sage-grouse populations and increase the redundancy and resilience of habitats in areas where Sage-grouse populations can grow and thrive. Just as important, these solutions protect the rights and needs of Utahns and bring together diverse stakeholders to invest in on-the-ground Sage-grouse conservation efforts in their own communities.

A complete analysis of Utah's landscapes, Utah's Conservation Strategies," developed as a part of this project created a spatially explicit and detailed quantification of issues identified as potential "threats" by U.S. Fish and Wildlife Service. Developing a more complete understanding of the scope and nature of each threat allowed for a meaningful level of certainty pursuant to detailed conservation strategies.



This project challenged many of our assumptions about threats, where they occurred and the degree to which these threats could impact Greater Sage-grouse and their habitats. For example, we found that 77% of habitats within Utah's SGMAs were not affected by these potential threats.

Just as surprisingly, we found that conifer encroachment, wildfire and post wildfire effects were substantially more likely to create long-term impacts to Sage-grouse habitats and populations than oil and gas development and exurban development within the 7.5 million acres comprising Utah's SGMAs. Most striking was the fact that over 95% of the birds are found in habitats that are virtually free of these threats. This strongly suggests that populations of birds are not only stable and free from threats, but inherently select

habitat areas not naturally impacted by wildfire, conifer encroachment and invasive plant species. Utah's conservation strategies are more than sufficient to not only protect these habitats, but also increase the total habitat available in areas where the birds can continue to grow and thrive.

Utah's Plan and Utah's Conservation Strategies provide a comprehensive model that can work for Sage-grouse and other important conservation needs within the State of Utah. The following sections provide an overview of how Utah Conservation Strategies work for Greater Sage-grouse, Greater Sage-grouse habitats and provide common sense solutions that work for Utah's economy, education funding and protect the rights of Utah landowners.

## Total Sage-grouse Populations #'s Within State Sage-grouse Management Areas 1968-2014

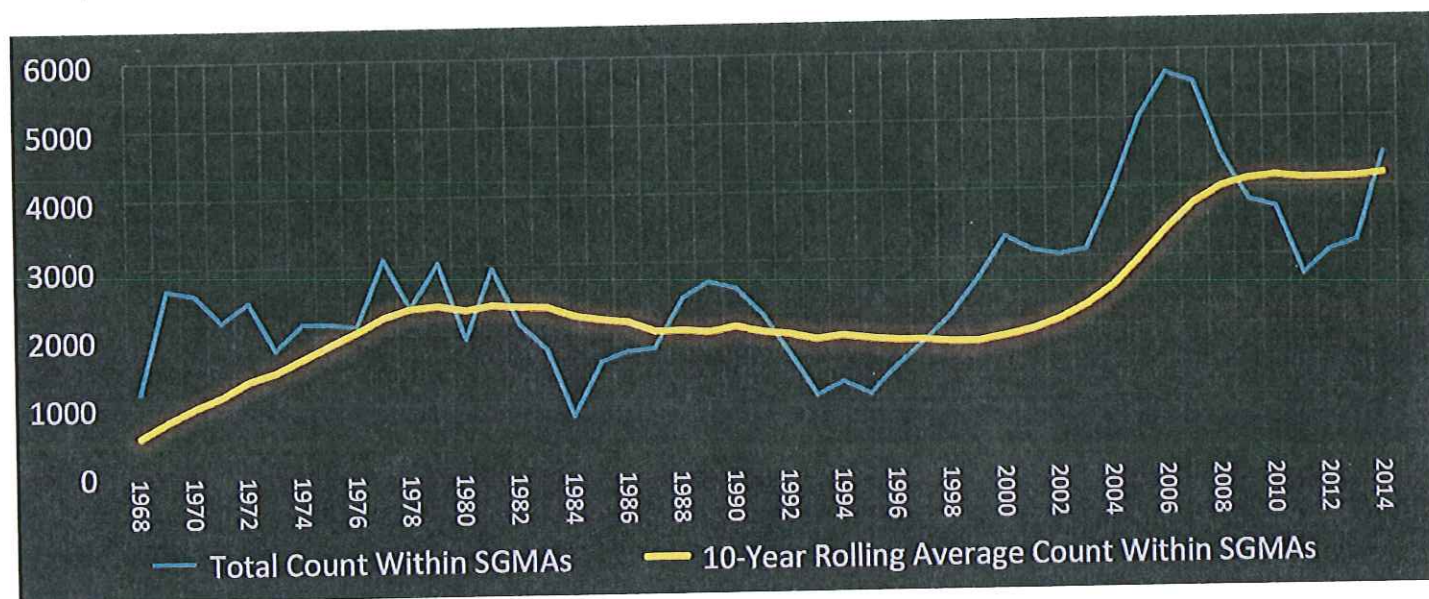


Figure 4. Population growth trends based on 10-year rolling average illustrates the growth of state Sage-grouse populations in Utah.

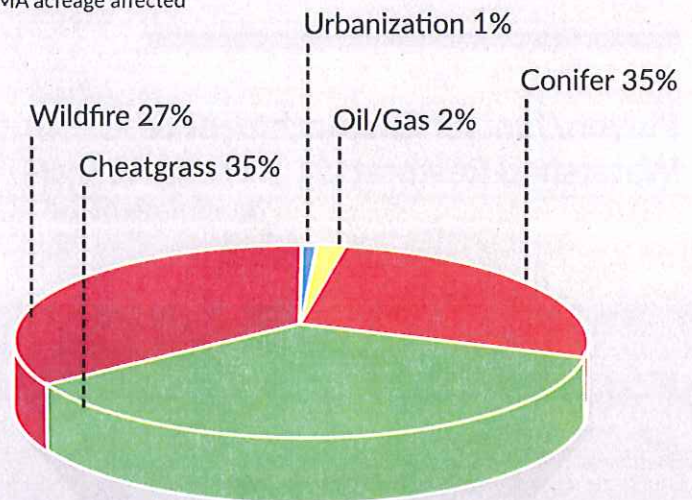


# POTENTIAL THREAT OVERVIEW

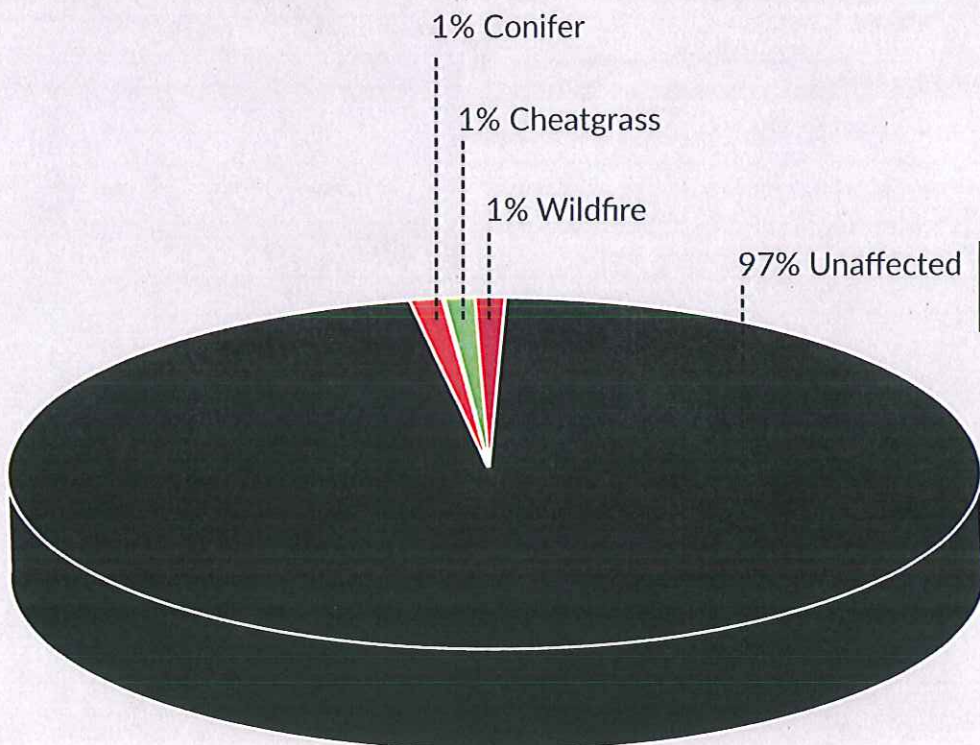
*Most of the Sage-grouse habitat in the state is not impacted by potential "threats." Of areas that are potentially impacted, over 97% are natural causes that are addressed through on the ground implementation of Utah's conservation programs.*

1

Figure 5. Quantified Threat Analysis Based on SGMA acreage affected



77% Unaffected



2

Figure 6. Over 95% of Utah's Sage-grouse reside in areas of best available habitat. These areas correspond with areas which are largely not impacted by conifer encroachment, wildfire or invasive plant species due to the moisture and natural characteristics of the habitat in these areas.



# UTAH CONSERVATION STRATEGIES

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## Pinyon/Juniper Encroachment & Watershed Restoration

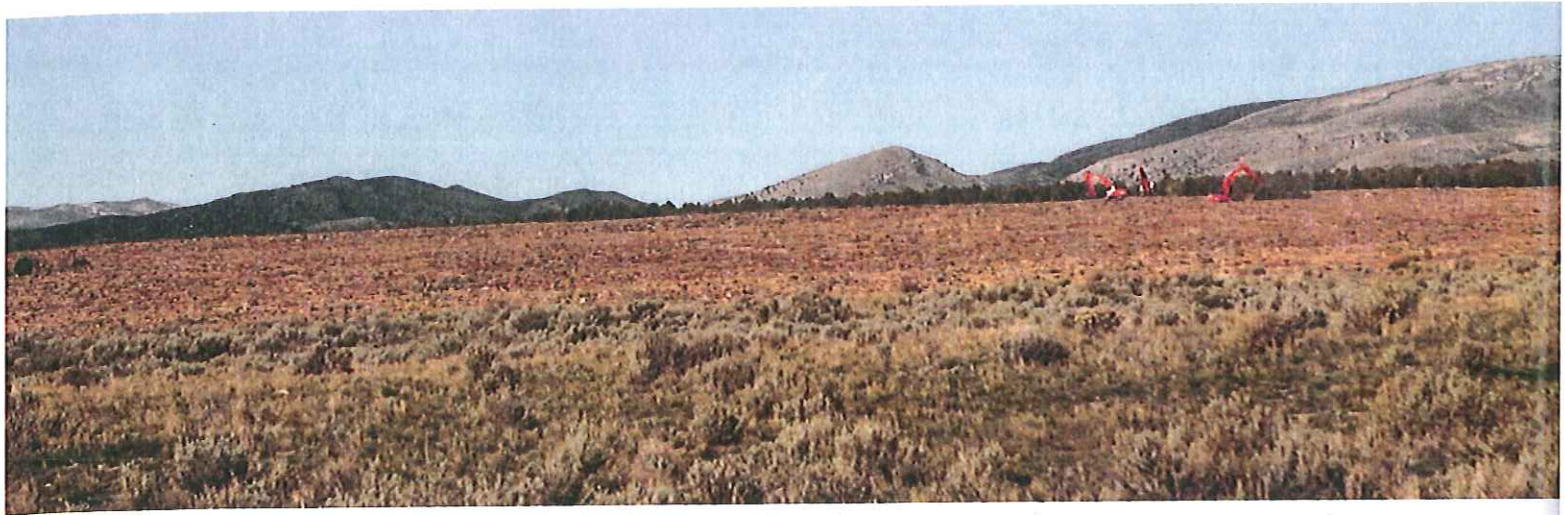


Figure 7. Landscape scale conifer removal in the State of Utah is effectively addressing habitat fragmentation and addressing other important concerns in Sage-grouse habitat.

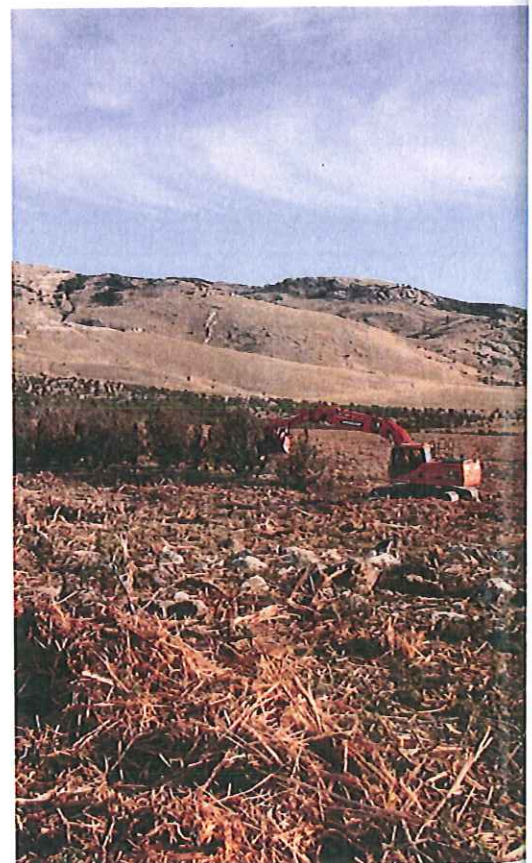
The State of Utah has invested, and will continue to invest millions of dollars into enhancing and restoring habitat for Sage-grouse through targeted removal of encroaching pinyon/juniper species into Sage-grouse habitats. Recent peer-reviewed scientific research demonstrates that conifer removal is an important conservation practice for Sage-grouse. The study found that even a small percentage of encroachment by pinyon and juniper trees can lead Greater Sage-grouse to abandon nesting and brood rearing habitats.

Since 2006, Utah has completed conservation projects on over 560,000 acres of Sage-grouse habitat through Utah's Watershed Restoration Initiative and its partners. The program leads the country in addressing habitat loss from

conifer encroachment into Sage-grouse habitats.

For a more complete explanation of the importance of addressing conifer encroachment, please refer to the National Sage-grouse Technical Team of the USDA Natural Resource Conservation Service's handout at <http://www.sagegrouseinitiative.com/conifer-removal-restores-sage-grouse-habitat/>

For a more complete explanation of the State of Utah's program to address pinyon/juniper encroachment in Sage-grouse habitat and the role of this program in restoring and improving Utah's watersheds, please refer to the Utah Conservation Strategies document entitled, "Pinyon/Juniper Removal for Proactive Habitat Restoration" in Exhibit A.





## Wildfire Management & Restoration

*Wildfire is a natural occurrence on Utah's landscapes. Many plants and animal species, including Greater Sage-grouse, evolved in an environment having cycles punctuated by natural wildfire.*

While Sage-grouse can adapt and even benefit from some fires, disruptions in the natural fire cycle, encroachment of conifers and the presence of exotic annual grasses such as cheatgrass have presented new challenges. Changes in wildfire frequency and intensity are raising concerns about the cumulative impact of fires within some the state's Sage-grouse Management Areas (SGMAs).

The State of Utah invests millions of dollars into programs to proactively address wildfire concerns including:

- (1) prevention;
- (2) suppression (including rapid response to wildfire in SGMAs); and
- (3) rehabilitation/restoration to areas affected by wildfire.

Utah's Conservation Plan for Greater Sage-grouse uses the best available science to ameliorate the threat of wildfire on Greater Sage-grouse habitats.

For a more complete explanation of the State of Utah's program to wildfire and post wildfire affects in Sage-grouse habitat, please refer to the Utah Conservation Strategies document entitled, "Wildfire Management and Restoration" in Exhibit B.

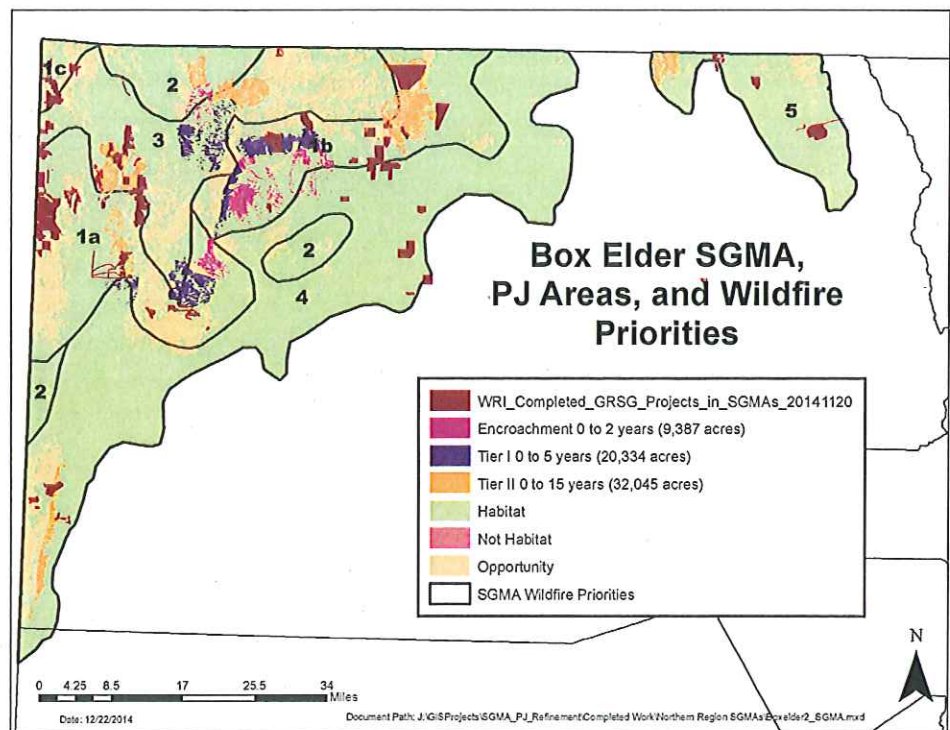


Figure 8. Implementation of Utah's Detailed Conservation Strategies for Wildfire can reduce the acreage burned by up to 85% within impacted SGMAs in the State of Utah.





## Oil & Gas Development

*Oil and Gas wells are not a threat within Utah's Sage-grouse Management Areas. 98% of Utah's SGMAs, or 7.29 million acres, do not correspond with oil and gas fields/units.*

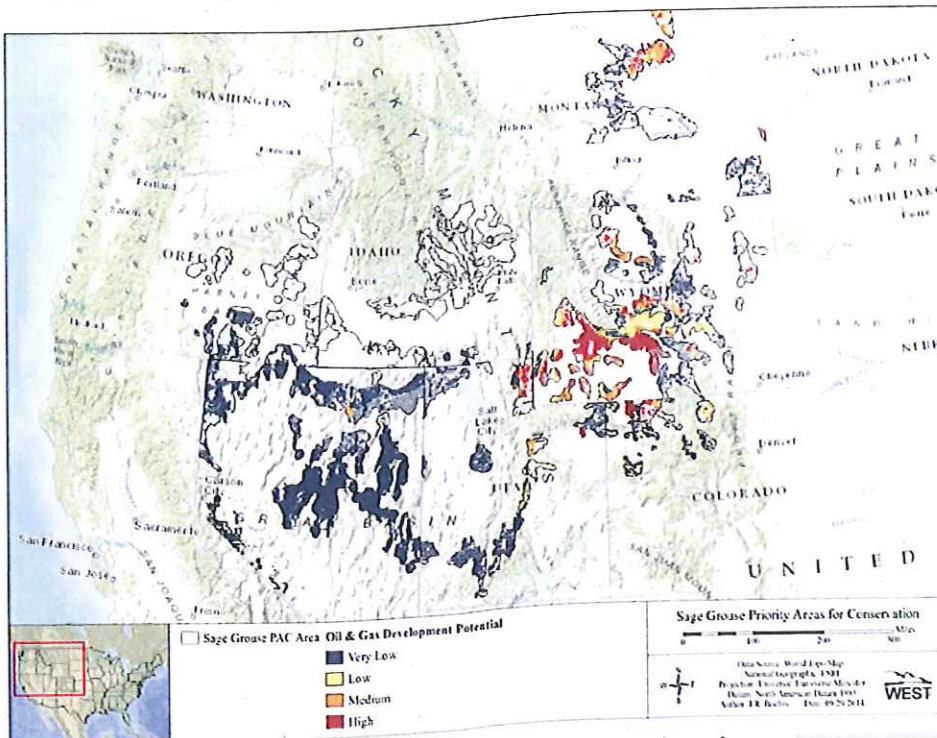


Figure 9. While oil and gas development is a significant concern in portions of the range, oil and gas development is not a significant concern in Utah's SGMAs (Copeland et al 2009).

There are approximately 189 known oil and gas wells located on these 7.29 million acres. The Conservation Plan for Greater Sage-grouse in Utah provides a framework for balancing the need for long-term protection of Sage-grouse populations with responsible energy development. Utah Governor Gary Herbert signed an executive order on February 25, 2015 addressing the state's regulatory mechanisms for oil and gas development in Sage-grouse habitat. Given the limited and localized nature of existing oil and gas development within Utah's SGMAs, Utah's Plan is more than sufficient to ensure long-term conservation of Greater Sage-grouse in the State of Utah.

For a more complete explanation of the State of Utah's program for Oil and Gas Development and Sage-grouse conservation, please refer to the Utah Conservation Strategies document entitled, "Oil and Gas Development" in Exhibit C.





## Low Density Development in Sage-grouse Management Areas

*Only three Sage-grouse Management Areas (SGMAs) in the State of Utah are projected to have more than 1,000 acres of new development by the year 2030.*

A detailed analysis of acreage projected to be developed within these SGMAs illustrate that only the Rich-Morgan-Summit SGMA has more than 200 acres of expected conflict within nesting-brood rearing habitats. The conclusion is that low-density development (sometimes referred to as exurban development) is not a threat to Sage-grouse populations in the State of Utah. Millions of dollars available through state, private and federal funding

sources are available to protect the interests of private landowners, incentivize protection of lands that are important to Utah's rural communities. Sage-grouse populations and to resolve imminent development threats in areas of priority habitat. Localized impacts in the Rich-Morgan-Summit and other SGMAs will be addressed through processes explained in Utah's Sage-grouse Conservation Plan.

For a more complete explanation of the State of Utah's program for exurban development and Sage-grouse conservation, please refer to the Utah Conservation Strategies document entitled, "Low Density Development" in Exhibit D.

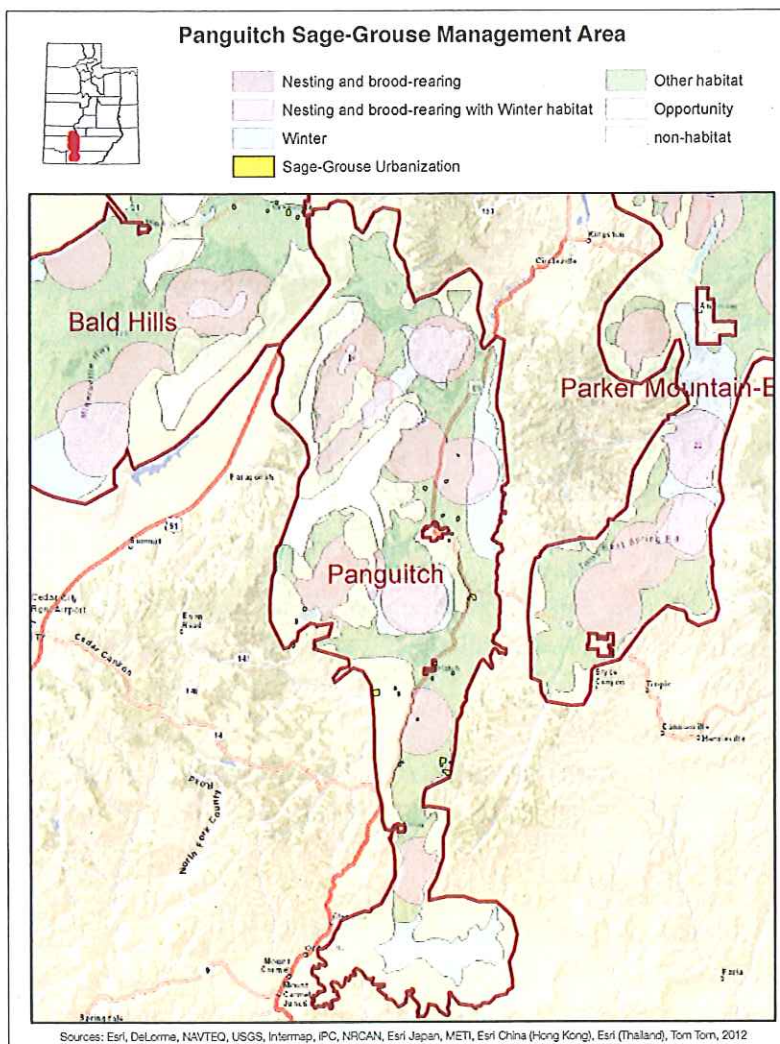


Figure 10. Low density rural development is not a significant threat within core habitats of Utah's SGMAs.







Figure 11-Sage-grouse biologists radio collar Utah Sage-grouse as part of intensive research studies in the state. Over 45 studies have been completed or are currently in progress to more effectively ensure success of Sage-grouse in the state.

## Utah's Management Plan Unlikely to be Given Full Consideration

Unfortunately, it has become increasingly clear that Utah's Plan will not be given full consideration if a decision is made in September 2015 as required by the 2011 settlement between environmental activists and the Obama Administration. This is because of the U.S. Fish and Wildlife Service's Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE Policy). It may seem counterintuitive, but the PECE Policy actually does not allow consideration of updated state plans, even when those changes were made at the encouragement of U.S. Fish and Wildlife Service:

*"While the [Endangered Species] Act requires us to take into account all conservation efforts being made to*

*protect a species, the policy identifies criteria we will use in determining whether formalized conservation efforts that have yet to be implemented or to show effectiveness contribute to making listing a species as threatened or endangered unnecessary."*

In follow-up meetings with U.S. Fish and Wildlife Service, senior officials have seemed to indicate that updated state conservation plans will be treated as "yet to be implemented" or "yet...to show effectiveness." Moreover, the high bar required for consideration under PECE will likely mean that many updated management plans, including those in Utah, will likely not be given full consideration.



## 2. Educating Members of Congress

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*Key political and policy makers are paying attention to what is happening with Greater Sage-grouse, including rewriting of resource management and conservation plans and activities related to the pending September 30, 2015 deadline for an ESA decision on Greater Sage-grouse. The Greater Sage- Grouse Coordinated Consulting Team is working with Utah's Congressional delegation and educating other members of Congress on key issues relating to Greater Sage-grouse and the Endangered Species Act.*

*We continue to find that there is significant bi-partisan support both in Western states and in Congress for solutions, which protect balanced use of natural resources in ways that are consistent with policies and management strategies that work for long-term success of Greater Sage-grouse.*

# PROGRESS & RESULTS

During the past year we have met with senior staff and members of Congress from Utah and other states. We have conducted tours of Sage-grouse habitat with senior staff, Sage-grouse and range land biologists and state policy makers. These tours provided an opportunity to discuss implementation of on-the-ground conversation measures to address the needs of Sage-grouse in the State of Utah.

## Sage-grouse and the National Defense Authorization Act

On April 13, 2015, House Armed Services Committee Chairman Mac Thornberry introduced H.R. 1735, the National Defense Authorization Act (the National Defense Authorization Act or "NDAA"). Contained in the Chairman's mark-up was language sponsored by Congressman Rob Bishop (R-UT 1st District) related to

Greater Sage-grouse. The provisions, which comprise Section 2862 of the NDAA, provide a 10-year extension of the deadline for making an Endangered Species listing determination for Greater Sage-grouse. This extension will allow state management plans time to work and demonstrate their efficacy. The provisions also provide an optional 5-year extension of time on Sage-grouse management plans for the Bureau of Land Management within a state, if requested by the governor of that state. The bill does not change the current legal status of the bird from "warranted but precluded." Amongst other provisions, the bill also would require an annual report to Congress on the conservation status of Sage-grouse throughout their range.

A copy of the language of the Sage-grouse provisions in Section 2862 of the National Defense Authorization Act is provided in Exhibit C.



Figure 12. Utah's Congressional Delegation has been very active in protecting state management of Sage-grouse through Congressional action.





Figure 13. Approximately 50% of AF training flights in the Continental United States are conducted in western test and training ranges impacted by the Sage-grouse. Additionally, the test and training ranges in the western United States provide capabilities that cannot currently be replicated anywhere else in the world.

## Committee Vote

On April 29th, 2015, mark-up was held on H.R. 1735 in the Full House Armed Services Committee. As part of the mark-up, Representative Niki Tsongas (D-MA Third District) offered an amendment to strip Section 2862 from the National Defense Authorization Act (NDAA). The amendment failed with a strong, bipartisan vote of 26-36. The House Armed Services Committee voted on final passage with a vote of 60-2, clearly demonstrating the strong level of support for the NDAA containing the Rob Bishop Language.

## House Vote

After its passage in committee, NDAA was sent to the Full U.S. House of Representatives for consideration. On May 15, 2015, the bill was passed by a vote of 269-151, once again demonstrating a strong level of support for the bill in Congress. All four members of Utah's Congressional delegation in the U.S. House of Representatives voted in favor of the NDAA and have been active in their efforts to ensure continued inclusion of Section 2862 in the NDAA.

## U.S. House Committee on Natural Resources

On Tuesday, May 19, 2015, the U.S. House Committee on Natural Resources held a hearing in Washington D.C. entitled, "Empowering State Management of Greater Sage-grouse." Chairman Rob Bishop conducted the hearing with many members of the committee speaking in favor of state management of Sage-grouse.

Kathleen Clark from the Utah Public Lands Policy Coordinating Office spoke at the hearing, as did representatives from other impacted Sage-grouse states. The following is a portion from Ms. Clark's testimony:

I find myself in an interesting position. As a former Director of the Bureau of Land Management, I have extensive insight into operations of a federal regulatory and land management agency. I respect the role of the federal government in management of lands and natural resources and oversaw BLM's development and implementation of a rigorous range-wide Sage-grouse conservation strategy which helped to support a "non-warranted" listing determination for the Greater Sage-grouse (GRSG) in 2006.

As the current director of the Public Lands Policy Coordinating Office for the State of Utah (PLPCO), I oversaw a year-long review of Sage-grouse in Utah, and the subsequent development of a bold, science-based conservation plan, including clearly identified goals and objectives recognized as innovative by observers of the process. Based upon that work and the subsequent efforts to find common ground with the federal land management agencies, I can tell you that sadly, there is a dichotomy developing between the State of Utah's collaborative planning process and a growing federal unilateralism. What started out as a promising partnership is becoming increasingly imbalanced and adversarial.

Let me be clear, the State of Utah is committed to long-term Sage-grouse conservation. Over \$50 million dollars has been invested in the last 10-years in Sage-grouse conservation in Utah.

The State, in a close partnership with federal agencies, has restored over 560,000 acres of Sage-grouse habitat since 2006, which work was funded and undertaken after the U.S. Fish and Wildlife Service determined the species was "not warranted" for listing. Research and groundwork have been the hallmark of Sage-grouse conservation. The State has engaged in an aggressive research program through our universities to scientifically determine the conservation needs of the species. We have improved habitat and engaged in land management studies involving habitat improvement and restoration, predator control and population augmentation. Results have been stunning, and directly contradict the recent gloom and doom predictions concerning the Sage-grouse...

The State of Utah supports the efforts of Congress to allow the states the opportunity to demonstrate the robust nature of their plans, and demonstrate the required level of certainty required by the Service's PECE standards. The 10 year time frame mentioned in legislation is firmly based in the science of Sage-grouse in Utah, and is recognized in peer-reviewed scientific papers. We believe that Congressional action is likely the only way to ensure the states have the necessary time to demonstrate effective conservation efforts and to secure the long-term sustainability of the GRSG.





Figure 14. Kathleen Clark from the Utah Public Lands Policy Coordination Office testifies at the U.S. House Natural Resource Committee Hearing May 19, 2015.

Dustin Miller the Idaho Director of Species Conservation also testified. The following is portion of Mr. Miller's testimony:

*The State of Idaho holds to the notion that local collaboration, local ideas, and local efforts garner the greatest results. We have a lot of pride in our state, and we are especially proud of our western heritage and abundant natural resources... but as you've heard, some of the recent top-down directives from Washington, D.C. have the potential to derail years of positive collaboration.*

Committee members from Sage-grouse states of Utah, Nevada, Montana, Wyoming, Colorado, California, and Washington were strongly supportive of efforts to protect state management of Sage-grouse.

Here are several quotes from members of Congress on the Committee illustrating their attention to efforts to force more federal mandates relative to Greater Sage-grouse and the importance of ongoing state management of the species:

**Rob Bishop**

"More than 40 years ago, the Endangered Species Act was enacted with good intentions and bipartisan support to recover species at the brink of extinction. Unfortunately, with less than two percent of the more than 1,500 listed species ever recovered, the law is failing.

"Cramming thousands more species onto the list and blocking the use of millions of acres of land—including restricting even how our military servicemen can use lands for military training and readiness – cannot be a measurement of success. States are using resources wisely to recover species and keep them off the list. We should do more to encourage them,"

**Cynthia Lummis**

"Because these 11 states are so different, a cookie cutter approach will not work. Each state is unique. Their ecology, their economies, their culture, their Sage-grouse habitat, and the reasons for Sage-grouse decline are very different."

**Ryan Zinke**

"Nowhere do I see what a healthy population is in Montana. When I don't know what a target number is, when the plan doesn't have anything constructive other than habitat, when it doesn't address wildfire, when it doesn't address predators, and yet the locals have expressed a considerable desire to save the species in a constructive manner that looks at predators, that looks at wildfires, looks at weather."

**Crescent Hardy**

"I've watched and grew up in Nevada my whole life and I've watched what has happened throughout the state with the growth of the juniper and the lack, or mismanagement, of what I call the federal government and what they are doing."

**Scott Tipton**

"They don't have an identifiable number [the Department of Interior for the recovery of the Sage-grouse]. Wouldn't it be a good idea, if we are actually going to have recovery, to be able to have a number that we know when we win?"

**Dan Newhouse**

"I live in central Washington. In my district, we have the Yakima training center, which is a 327,000 acre training site for our military. Of that, there are 77,000 acres that are currently designated Sage-grouse protection area. The army has already taken various steps and spent a lot of money to operate in a manner that minimizes the impact on the species. Things like seasonal management and habitat protection. If the ESA, under a listing would further impact and really take a lot of the training center out of being operable, and very severely limit its ability to carry out its mission."

**Doug LaMalfa**

"When we have these listings, who knows, by the time they are done implementing the plan, people can do less in the area to manage the timber, to manage the land, to do things that would dovetail well with the species and its recovery, it will just be off limits, the whole forest will burn. In the case we are talking about here, more juniper will grow because we are afraid we might disturb a nesting grouse, instead of doing things that are going to improve it. It is a big frustration."



## Support

The National Defense Authorization Act continues to work its way through the legislative process. A final bill is expected as soon as September of this year. In anticipation of conference efforts to harmonize the House and Senate versions of the bill, a "Dear Colleague" letter was sent to the leaders of House and Senate Armed Services Committees regarding Greater Sage-grouse and section 2865. The letter reads in part:

*We are writing in strong support for retention of Sections 2862 and 2865 contained in the House-passed National Defense Authorization Act for Fiscal Year 2016 (H.R. 1735) dealing with Protection and Recovery of Greater Sage-grouse and the Lesser Prairie Chicken.*

*These sections were adopted with strong bi-partisan support in the House of Representatives...It is entirely appropriate that these issues be addressed within the context of the National Defense Authorization Conference Report...We believe that Sections 2862 and 2865 represent a balanced approach to both conservation and preservation of the species, by allowing time for the affected states to implement and demonstrate their individual plans.*

107 members of Congress signed the Dear Colleague letter. It was finalized July 9, 2015 and sent to leaders of House and Senate Armed Services Committee. A full copy of the letter is included in Exhibit E.







## ONGOING EDUCATION

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The Greater Sage-grouse Coordinated Consulting Team is also working with policy makers in other states. Science, data and feedback from Western states has been instrumental in providing a greater breadth of understanding as we work with members of Congress. Not only does this help inform policy-making decisions to address the needs of Greater Sage-grouse, it also helps provide a clearer understanding of impacts that could affect the citizens of the State of Utah. To date, the Greater Sage-grouse Coordinated Consulting Team efforts extend to a number of Greater Sage-grouse states, including, but not limited to, Utah, Colorado, Wyoming, Idaho, Montana, Nevada and Oregon.

There are two primary areas of interest by policy makers. First, the current plans and conservation efforts to ensure long-term survival of Greater Sage-grouse. Second, the potential impacts of a premature decision on whether to list Greater Sage-grouse as an endangered species.



# 3. Engaging the Public in the Process

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# COORDINATED CONSULTING TEAM OUTREACH

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During the past year we have learned that people not only want to know what is happening with Greater Sage-grouse, but also to understand how those decisions impact them.

## **ESA Listing and Control of Utah Working Landscapes**

For the past decade, powerful special interest groups have been working tirelessly to replace state management authority of Greater Sage-grouse and their habitats with draconian federal regulation under the Endangered Species Act. Early decisions affirming state management of the species have been overturned. A 2011 settlement between landscape control activist organizations and the Obama Administration is forcing a decision on whether the species and its habitats will continue to be managed by the states or are placed under control of powerful federal agencies.



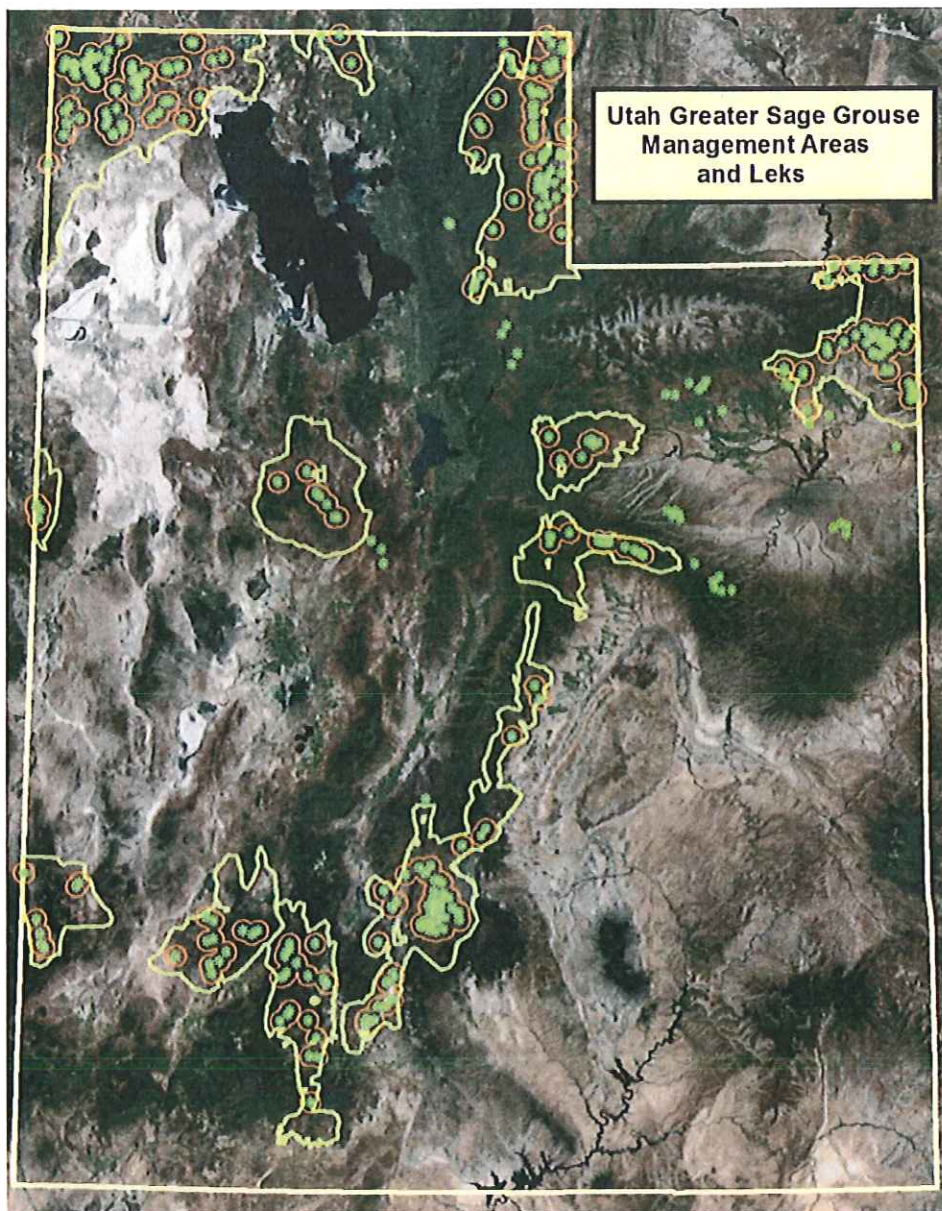


Figure 15. Sage-grouse are distributed across 8 million acres within the State of Utah. Most of the sagebrush habitat is desert shrub which is poor Sage-grouse habitat accounting, for the overall low population of Sage-grouse in the state.

Listing of Greater Sage-grouse creates a federal nexus on all 8+ million acres of Sage-grouse habitat in the state, allowing litigation by activist organizations on all land-use decisions whether the property is federally managed, state owned or private property. This would likely open the floodgates of litigation and further limit use of working landscapes in the State of Utah.

Utahns access to and decision-making authority with respect to working landscapes in the state, has dramatically declined in the last few decades. Legitimate questions are being raised about the staggering level of federal control over decisions that detrimentally impact the ability of Utahns to use, work and enjoy these lands. Listing of Greater Sage-grouse would substantially and likely permanently restrict access to and productivity of these landscapes.



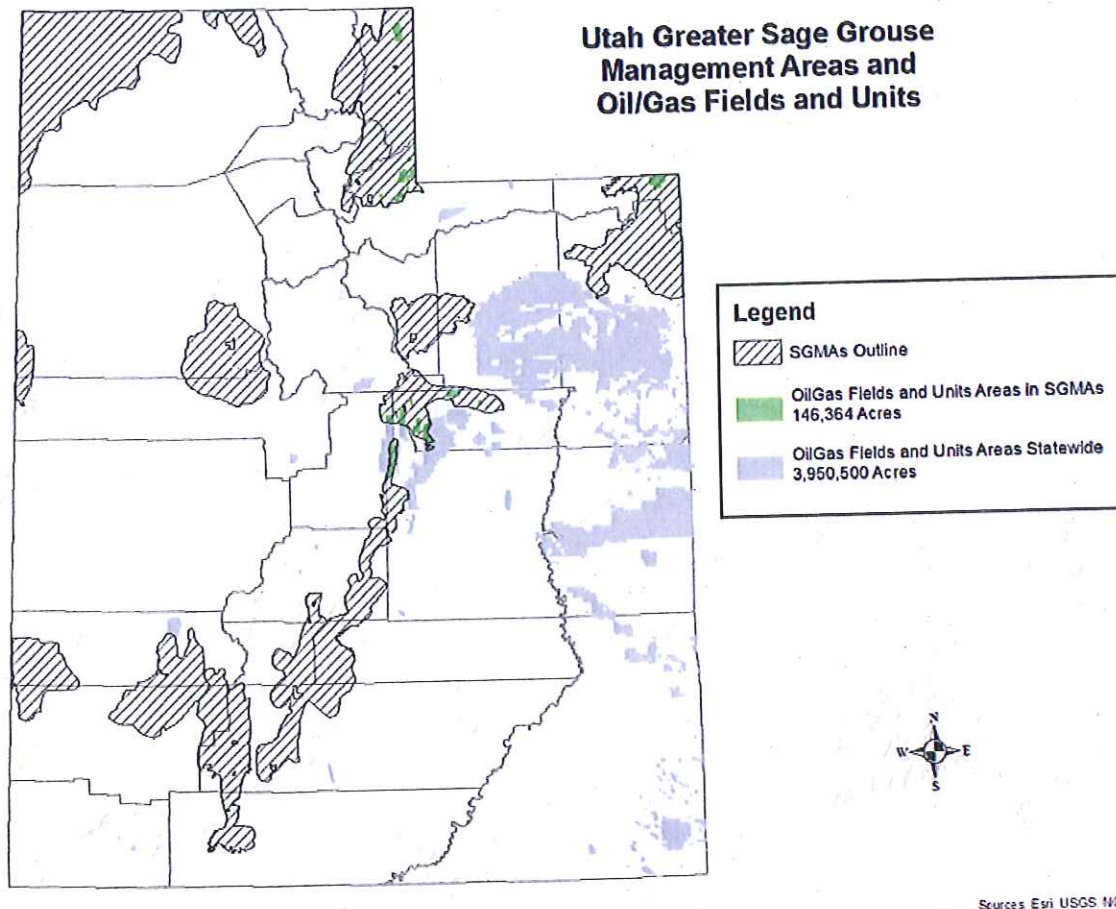


Figure 16. Protecting Sage-grouse within the state's SGMAs is possible while also allowing oil and gas development under state management authority. Federal listing of the species and additional federal restrictions in areas outside of the state's SGMAs could result in economic losses in the billions of dollars annually.

## Economic Impact Analysis Illustrates importance of the issue to a healthy economy

As part of our efforts, we have worked with the Utah Public Lands Policy Coordination Office to more carefully quantify the potential impacts of a Sage-grouse listing, or additional restrictions through federal resource management plans. The Bureau of Economic Stand Business Research at The University of Utah was commissioned to do a third-party independent assessment of economic activities within Sage-grouse habitats within the State of Utah (BEBR Report). The results of their analysis are insightful. These impacts threaten key components of Utah's economy including oil and gas, mineral development, outdoor recreation, education funding, livestock production and farming.

Here is a summary from the BEBR Report:

*...a conservative estimate of activities in FWS current Sage-grouse range suggests they contribute 13,000 jobs*

*with \$831 million in earnings and \$2.5 billion in gross state product (value added). Activities in historical-only range support 11,000 jobs with \$723 million in earnings and \$2.5 billion in GSP. Finally, activities in SGMAs support almost 5,000 jobs with \$165 million in earnings and \$339 million in GSP.*

By analyzing current, potential historic range and the state's SGMA's, the report clearly illustrates the substantial difference between state management focused within the state's Sage-grouse Management Areas and a federal model which could result in substantial restrictions in not only SGMAs, but also current and historic range:

*The differences in values between SGMAs and those of the other two ranges is striking. As noted above and shown below, although oil and natural gas production from wells within SGMAs was once a major component of total production statewide, production within SGMAs has been in decline since the late 1980s (oil)/mid-1990s (gas), with current production volumes only a very small fraction of their highs from the 1980s and 1990s.*



## Educating the Public

Engaging the public to support common sense solutions for Greater Sage-grouse is the third area of emphasis set forth in the State of Utah contract requirements. New and existing team members and resources are enhancing our ability to educate and engage the public.

## Direct Engagement

The Greater Sage-grouse Coordinated Consulting Team staff, contractors, partners and volunteers in key Sage-grouse states to directly engage the public. We focused these efforts in counties with Sage-grouse populations where listing of the birds not only could affect conservation of the species, but also education funding, hard-working families, outdoor recreation and local economies. We found that people support state-based management efforts and want federal wildlife manag-

ers to augment state efforts, not replace state efforts with more federal regulation. Significant in-person outreach efforts have been undertaken in Western States including Utah, Idaho, Montana, Wyoming, Nevada, Washington, Colorado and Oregon.

## Engaging Existing Supporters

During the last year we have engaged tens of thousands of interested western residents on the issue of Greater Sage-grouse. There is significant concern about the fact that a species with an approximate population of 500,000 spread across 11 Western states would be considered an endangered or threatened species. We also found that respondents felt the restrictions of the Endangered Species Act are best utilized as a last resort. This was particularly true where the efforts of impacted states have stabilized Sage-grouse population trends in recent decades. Just





as importantly, the public trusts states to implement solutions that work for conservation and for western economies. They also support funding from federal wildlife agencies to Western states to help advance efforts of state wildlife professionals to implement common sense solutions for conservation priorities like Greater Sage-grouse.

### **Paid Outreach**

The Sage-grouse Coordinated Consulting Team began outreach efforts to help understand how certain demographics felt about the possibility of a listing of Greater Sage-grouse. The most responsive demographics included parents of school-age children, outdoor recreation enthusiasts and individuals concerned about economic productivity and jobs. We learned that these individuals responded more readily to information that conveys how a premature listing of Greater Sage-grouse might impact them and their families. There was a high degree of support for state conservation measures among these individuals. This support increased when the individuals understood these conservation measures were consistent with common sense solutions that ensure balanced use of resources in ways that protect education funding, outdoor recreation and minimized impacts to jobs and the economy.

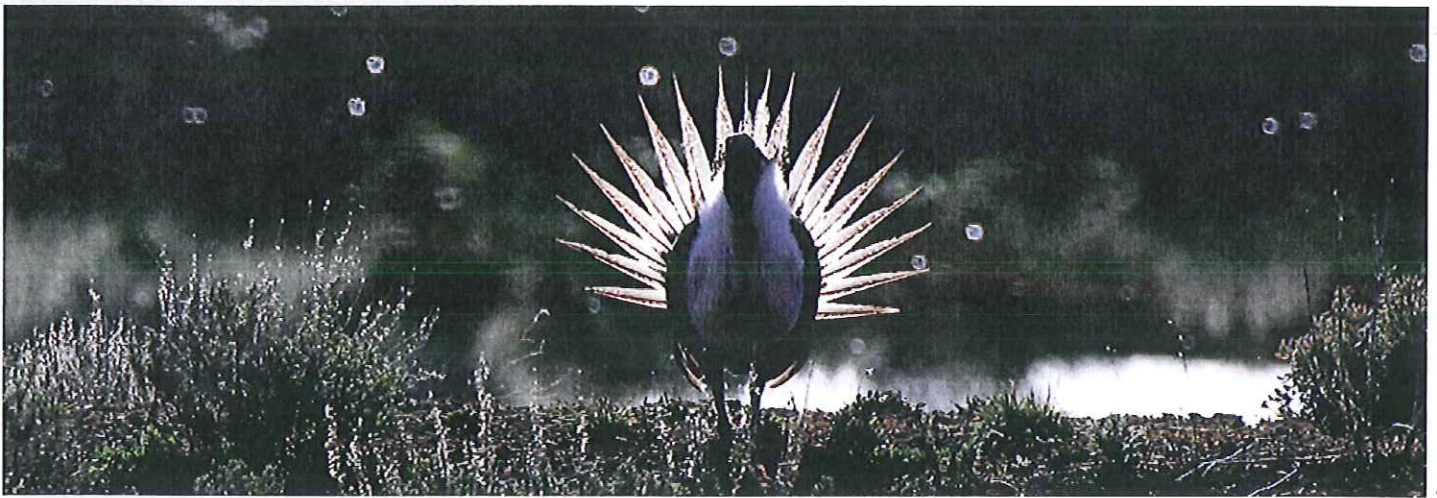
### **Direct Action**

Literally thousands of phone calls and tens of thousands of messages of support have been sent to Congress during the past year in support of state management

of Sage-grouse. Over 50,000 individuals have signed the online petition in support of Congressional action to provide an extension of time. This is in addition to tens of thousands of existing supporters who have expressed concern regarding policies impacting Western states. These supporters have played a significant role in contributing to the momentum of Section 2862 of the National Defense Authorization Act.









# CONCLUSION

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***We are encouraged by the efforts of states, diverse interests and Congress to support common-sense, state-based conservation measures that not only protect balanced use of our natural resources, but also long-term conservation of species like Greater Sage-grouse.***

Our legal, legislative and public outreach efforts during the past year have been both productive and insightful. We have found that there is a high level of interest in protecting state management of Sage-grouse populations and ensuring that efforts by Western states to conserve Sage-grouse and their habitats can continue without more federal mandates.

State-based, common-sense solutions are demonstrating a clear commitment to maintain Sage-grouse populations in a manner expressly designed, to not only avoid the threat of extinction of Greater Sage-grouse, but also maintain robust numbers of birds in areas where Sage-grouse can be successful.

Diverse interests are working together to implement science-based solutions to meet agreed upon conservation objectives to ensure conservation of Greater Sage-grouse in ways that also ensure a bright future for jobs, local communities and Western economies.







Stag Consulting

# Sage Grouse

ANNUAL REPORT

Contract No. 136039

